

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RORY A. WATSON,

Plaintiff,

vs.

LLOYD J. AUSTIN III, SECRETARY,
U.S. DEPARTMENT OF DEFENSE,
DEFENSE COMMISSARY AGENCY;

Defendant.

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SA-24-CV-00027-FB

ORDER

Before the Court is the above-styled cause of action, which was referred to the undersigned for all pretrial proceedings. The record reflects that Plaintiff, proceeding *pro se*, filed a Complaint on January 8, 2024, against Lloyd J. Austin, III, Secretary of the United States Department of Defense. To properly serve an officer of a United States Agency in an official capacity, a party must serve the United States, as well as the agency, corporation, office, or employee. Fed. R. Civ. P. 4(i)(2). To properly serve an officer of a United States Agency in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf, a party must still serve the United States in addition to serving the individual. Fed. R. Civ. P. 4(i)(3).

The summons returned executed in this case reflects service on the Defense Commissary Headquarters in Fort Gregg-Adams, Virginia [#6]. It does not appear that Plaintiff has served the United States as required by Rule 4(i). A Plaintiff serves the United States by serving the United States Attorney for the Western District of Texas and sending a copy of the Complaint and Summons to the Attorney General of the United States in Washington, D.C. *See* Fed. R.

Civ. P. 4(i)(1). The United States Attorney for the Western District of Texas may be served either in person (by a person who is at least 18 years old and not a party to the case) or via registered or certified mail.

The mailing address for service of the U.S. Attorney for the Western District of Texas is:

Civil Process Clerk
U.S. Attorney for the Western District of Texas
San Antonio Division
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

The mailing address for service of the Attorney General is:

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

In light of Plaintiff's *pro se* status, the Court will *sua sponte* extend the time of service for Plaintiff to properly serve Defendant pursuant to Rule 4(i). The Court warns Plaintiff, however, that a failure to comply with the new deadline for service could result in dismissal of this case for failure to prosecute or to comply with any order of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam); Fed. R. Civ. P. 41(b).

IT IS THEREFORE ORDERED that Plaintiff serve Defendant with summons in accordance with Rule 4(i) on or before **May 31, 2024**. Defendant must answer or otherwise respond to Plaintiff's Complaint within **60 days of proper service**.

SIGNED this 2nd day of May, 2024.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE